

# TRUTH- IN- MENU

## Guidelines

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### BACKGROUND

Consumers always have expected safety in foods but recently have demonstrated a growing concern for nutritional quality and honest representation. This concern has been directed toward packaging and labeling of food products. Accuracy in representation does not stop there, however; it is expected of menu items as well. The menu, and the waiter or waitress, are the only sources of information readily available to the restaurant customer.

Truth-in-menu, or accurate menu representation, first attracted national attention in 1976 when Los Angeles County took an active enforcement stand and began regulation through its Department of Health Services (as described in "Truth-in-Menus, Menu Misrepresentations, and Misleading Advertisements Can Be Costly," Southern California Restaurant Association, Los Angeles, California, 1976).

Other states have taken positive action since then by enacting policies concerning truth-in-menu. M.J. Steinbrunner reported (in "Truth-in-Menu: It's Working in Michigan," *Food Service Marketing*: 8, 1977) that the Michigan Restaurant Association adopted a truth-in-menu policy stating members will not

"knowingly list any item on their menus by false or misleading name or description, or substitute another item for one listed on the menu." Nebraska has issued a regulation on false advertising of food which states that an advertisement is deemed false if false or misleading in any particular (see "Nebraska Issues Regulation on False Advertising of Food," in *NRA Washington Report*, No. 10: 2, 1978). The Chicago and Illinois Restaurant Association has provided members with guidelines to accurately and truthfully represent menu items (see "Truth-in-Menu Guidelines," Chicago and Illinois Restaurant Association, Chicago, Illinois, 1977).

In addition to the action taken by states, the Environmental Health Administration of Washington, D.C., conducted two surveys on accuracy of menus for the International Society of Restaurant Executives: "A Survey of the Accuracy of Menus in Public Eating Establishments in the District of Columbia," by B. Walker, Jr., 1977, and "A Survey of the Accuracy of Menus in Food Service Establishments," by B. Walker, Jr., J. Nuzzi, and R.N. Beck, 1977. Also, the Environmental Health Administration published "Accuracy in Menu Language Guidelines for the Food Service Industry" in 1977.

The Minnesota Restaurant Association is recognizing the need to provide restaurateurs with adequate information concerning truth-in-menu. Minnesota Statute 329.905 concerning false statements in advertising is summarized in the following:

"Any person, firm, corporation, or association who, with intent to sell . . . directly or indirectly, to the public . . . makes, publishes, disseminates, circulates, or places before the public, . . . in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, label, price tag, circular, pamphlet, program, or letter, or over any radio or television station, or in any other way, an advertisement of any sort regarding merchandise . . . service, or anything so offered to the public, . . . which advertisement contains any material assertion, representation, or statement of fact which is untrue, deceptive, or misleading, shall, . . . be guilty of a misdemeanor . . ."

It is of critical importance for you, as a restaurant operator, to fully understand the impact of this statute as it pertains to truth-in-menu. This folder provides guidelines to help you accurately represent menu items to the consumer.

## **GUIDELINES**

### **I. Incorrect or deceptive geographic points of origin should not be used.**

This means that food items must be grown, harvested, processed, or packed at locations specified on the menu. You must be able to substantiate the claim with labels, bulk packages, boxes, invoices, etc. Serving a product from a country other than that stated on the menu does not meet the expectations of the consumer and is, therefore, misleading.

Possible violations include: Idaho potatoes, Canadian walleye pike, Wisconsin cheese, Maine lobster, and Lake Superior whitefish.

It should be noted that generic terms are acceptable to designate a product. This would include descriptions such as: English muffins, New England clam chowder, Russian dressing, Irish stew, French toast, French dip, etc.

To obtain some flexibility and still merchandise a specific region for a product one may wish to use a geographic area instead of a single state; for example, Gulf Coast shrimp. A good test is to ask yourself if the public could be misled in any way about the origin of the item advertised.

### **II. Menu items represented to be specific sizes or weights must be no less than what is advertised.**

Whatever is presented on the menu as a 12-ounce steak or a half-pound hamburger must weigh that amount before being cooked. This means that bowls must be larger than cups, doubles must be twice the size of regular, and jumbo must be larger than extra-large. If steaks are sliced to order by weight, scales should be used to determine precooked weights. Providing less deceives the customer and is definitely a misrepresentation.

As a restaurateur, you know the importance of portion control in relation to food costs. Accurately representing weights and sizes on the menu results in a double benefit—to the consumer and to you.

### **III. Merchandising terms relating to the method of preparation or characteristics of a food product which cannot be verified by the owner should be avoided.**

This means that if a descriptive word or phrase is used, it must be accurate and verifiable. If not, don't use the term. Some

examples of problem situations include: "homemade," "best blend," "our own special sauce," "finest quality," "low calorie," "roasted," "sauteed," "fried," "boiled," "baked," and "smoked."

"Homemade" or "homestyle" indicates the product has been prepared on the premises, from scratch, in the restaurant kitchen, from a recipe under conditions and with ingredients similar to those used in the home. This means commercial ingredients and preparation methods not available to the home cannot be used.

"Our own special sauce" must in fact be some preparation that is prepared for the specific restaurant, even if a major ingredient is a commercially prepared product. If a restaurant wishes to advertise a house brand, the product must be prepared according to an exclusive recipe or specification.

To be classified as low calorie, the meal should total 300 to 400 calories. It should provide balanced nutrition of approximately 20 percent protein, 35 percent fat, and 45 percent carbohydrate. If these conditions are not met but the meal or item still is advertised as "low calorie," then the actual calories and percent protein, fat, and carbohydrate should be shown as an aid for guiding the customers in their menu selection.

Pictorial representations must be accurate as well. This means a picture of three portions of fish, when only two portions are served, would be an inaccurate representation. Advertising broiled products when the product is, in fact, fried, grilled, or steamed is deceptive.

Terms which are such gross exaggerations that they are not misleading to the consumer (for example, "elephant size" and "mile high") are acceptable. The terms to watch for are those suggesting quality, grade, or superiority that cannot be verified.

### **IV. Products that have been frozen, canned, or preserved to extend shelf life cannot be advertised as "fresh."**

"Fresh" in this context denotes timeliness or recency of production (for example, "freshly baked bread"). Fresh means that the item has never been frozen (32°F) or preserved by methods such as drying or canning to extend shelf life.

Some fruits and vegetables are rinsed with various chemicals to retard bacterial growth and browning. At this time we will not consider these rinses or refrigeration preservation methods, since shelf life is not extended for a long period of time. The USDA designates fresh fruits and vegetables as those in an edible state and meeting the characteristics of that food item. This would mean that a product purchased from a wholesaler and stored in a cooler could still be merchandized as fresh, if the same quality characteristics were retained as when the product was first refrigerated.

Food items fresh-dated by the processor (such as bakery products and eggs) can be advertised as fresh only in compliance with the date. Note that any meat, fish, or poultry product that has been frozen cannot be labeled fresh.

### **V. The representation of price should be accurate.**

The NRA states (in "Accuracy of Menu," PBO 30: 3, 1978):

"If your pricing structure includes a cover charge, service charge, or gratuity, these must be appropriately brought to your customer's attention. If extra charges are made for requests such as 'all white meat' or 'no-ice drinks,' those should be so stated at the time of ordering.

"Any restrictions when using a coupon or premium promotion must be clearly defined.

"If a price promotion involves a multi-unit company, clearly indicate which units are participating."

## VI. The menu description of brand, quality, or grade of products represented should be accurate.

This aspect of truth-in-menu encompasses four specific areas. *One of these areas of concern is the sale of adulterated food products.* A food is adulterated and illegal to sell if it meets any of the criteria in the box below.

### ADULTERATED FOODS\*

A food is deemed adulterated when any of the following is true:

- It bears or contains any poisonous or deleterious substance that may render it injurious to health; if the substance is not an added one, the food is not considered adulterated if the quantity present is not considered injurious to health.
- It bears or contains any added poisonous or added deleterious substance that is unsafe.
- It bears or contains a food additive or color additive that is deemed unsafe or that is used contrary to regulations.
- It is a raw agricultural product and contains the residue of a chemical in excess of established tolerance or an unauthorized pesticide.
- It consists in whole or in part of any filthy, putrid, or decomposed substance or is otherwise unfit for food.
- It has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth or rendered injurious to health.
- It is, in whole or in part, the product of a diseased animal or of an animal that died otherwise than by slaughter.
- The container is composed, in whole or in part, of any poisonous or deleterious substance that might render the contents injurious to health.
- It has been intentionally subjected to radiation, except such as is deemed safe.
- Any valuable constituent has been omitted in whole or in part, or abstracted, or any substance has been substituted wholly or in part therefor.
- Damage or inferiority has been concealed in any way.
- Any substance has been added or mixed or packed with it to increase its bulk or weight, or to reduce its quality or strength, or to make it appear better or of greater value than it is.

\*As defined by F. Kinder in "Food Laws and the Regulation of the Food Supply," *Meal Management*, MacMillan Publishing Co., New York, 1973.

*The second source of problems is substitution of food items of lesser quality or different from food items advertised.* Brand name products such as Sanka, Coca Cola, Jello, and Pepsi must not be replaced by similar products if the menu advertises the brand name. If you advertise a product as your own, you must have your own label. In similar manner, foods advertised as a specific quality grade must not be substituted by a lesser grade. Some common violations would be substituting grade A eggs for grade AA, serving choice beef instead of prime, or substituting an imitation maple syrup for maple syrup. Grading of

meats is done only by the USDA, and any grade represented on a menu must be verifiable by the USDA stamp. Note, too, that a meat product which has not been graded cannot be labeled as such.

You must be careful with any religious implication in a name, such as "kosher." Any item designated as kosher must be prepared or processed to meet the requirements of the orthodox Jewish religion, and identified by Hebrew lettering or symbols on a tag, label, or product wrapping. Any product not meeting these requirements must be labeled "kosher style."

*A third problem is encountered when advertising hamburger products.* Hamburger must not contain more than 30 percent fat nor any added water, binders, or extenders. According to R.J. Epley (in "Selected Rules and Regulations for Meat at Retail," Animal Science Fact Sheet No. 30, University of Minnesota, 1976), any product which has soy products or other extenders added cannot be labeled "burger" on the retail level in Minnesota. As of August 1, 1975, all restaurants and eating places in Minnesota were required to clearly indicate on their menus if any of the meat they served contained a filler or meat substitute (Minnesota State Statute 31.633, dated 1975). Violation of this law is a misdemeanor.

To clarify misrepresentations within meat, poultry, and fish products, the following discussion defines each product.

### Beef

**Aged meat**—To meet the requirements for aged meat, the method of storing primal cuts for 10 days to 6 weeks under controlled temperature and humidity must be followed. Any restaurant that cannot verify that this method has been followed cannot advertise aged meat products.

**Grades**—Prime is the highest quality and is the highest grade assigned to beef. All meats designated as prime must be stamped by the USDA. An exception is advertising prime rib, which is a generic term and doesn't designate a prime grade; however, rib of prime beef does denote a prime grade.

**Cuts**—Beef loin is the hindquarter section after the round is removed. The sirloin is the end of the beef loin including the sirloin butt and butt tenderloin. Club steak comes from the anterior portion of the short loin, has no tenderloin, and also may be a boneless cut from the strip loin. Tenderloin is the most tender, boneless meat obtained from the loin of animals. Ground beef is a product comprised of small pieces of meat from boning and trimming operations. There is no grade given, so no grade may be advertised. Ground round must be exclusively from the round, just as ground sirloin must be derived from the loin. Beef liver cannot be advertised as "baby beef" or "calves liver" unless that can be substantiated.

### Veal

Veal and calf meat are differentiated by the USDA depending on age of the animal at time of slaughter. It is inaccurate to advertise one as the other.

A veal cutlet is a single slice from the veal round. Veal steaks are slices, or formed slices, from other areas. A veal patty is a formed product consisting primarily of veal. Any substitution of a veal cut other than that advertised is a violation.

### Pork

Pork chops are single slices, whereas a pork patty is a formed product. A breaded pork patty cannot be labeled as a breaded pork chop. Imitation hams, country hams, and Virginia hams, if identified on the menu, must be verifiable. Picnic ham cannot be substituted for "ham," "pork shoulder," or "pork shoulder picnic." A turkey ham product must be identified as

such instead of "ham" on the menu. Any pork product in which water increases the uncured weight by 10 percent must be labeled "moist" or "water added."

#### Poultry

Chicken and turkey must not be substituted for each other, just as chicken cannot be substituted when "capon" is advertised. Poultry in salads must be accurately identified.

#### Fish/Seafood

Fish fillets are from the sides of the fish, whereas fish portions are uniformly shaped pieces cut from frozen fish blocks. All fish species are identified by the wholesaler, so accurate menu representation is possible. Some question may arise with various species of a fish; for example, 12 species of fish can be advertised as "red snapper." Certain fish items served in Minnesota might vary considerably from the same items in Florida or in California.

Shrimp causes yet another problem in accurate representation. Shrimp must comprise 50 percent of the total weight of the finished product labeled "breaded shrimp," whereas lightly breaded shrimp contains 65 percent shrimp by weight. A shrimp product containing less than 50 percent shrimp by weight must be labeled as imitation breaded shrimp. Shrimp pieces are pieces or parts of a peeled shrimp without the tail. Checking invoices will accurately identify your shrimp product.

*Dairy products represent the fourth problem area related to brands, quality, or grade of products.* The standards of identity for dairy products must be met in order to achieve accurate representation. Cream must be derived from fresh milk and have at least 18 percent milk fat, or it cannot be advertised as cream. Half-and-half, or non-dairy coffee blends, cannot be advertised as cream on the menu. Whole milk cannot be substituted for skim or 2 percent, and, similarly, skim cannot be substituted for whole. Processed cheese spreads cannot be substituted for cheeses. French ice cream must have egg yolks and meet the standard of identity for frozen custard. If the menu claims an item is prepared in butter, margarine cannot be substituted. Whipped butter does not have a standard of identity; but if ingredients such as margarine or cream are added to it, the product should not be advertised as butter.

#### **CONCLUSION**

These guidelines represent an effort to provide Minnesota restaurateurs with enough information to accurately and truthfully represent food items, both orally and on the menu. Active participation in the truth-in-menu movement will help the food service industry achieve greater professionalism.

This bulletin has been prepared as a part of the University of Minnesota Food Service Quality Assurance Education Program, so that the industry might have the technical knowledge to provide the people of Minnesota with the best food service system.

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#### **POTENTIAL PROBLEM MENU ITEMS**

<b>Point of Origin</b>	<b>Quality, Grade, and Brand Name Substitutions</b>
Lake Superior whitefish	Coca-Cola
Maine lobster	Sanka
Alaskan king crab	Baby beef liver
Wisconsin cheese	Breaded pork chop
Imported Swiss cheese	Barbequed ham sandwich
European ham	Special steak sandwich with tender aged beef
Virginia ham	French ice cream
Idaho potatoes	Maple syrup
Colorado rainbow trout	Roquefort cheese vs. blue cheese
Danish ham	Aged meat
South African lobster tails	Chopped sirloin steak
<b>Size/Weight</b>	Ground sirloin
5 oz. buffaloburger	Chicken salad
Jumbo eggs	Fantail or Butterfried shrimp
10, 8, or 6 oz. top sirloin	Lightly breaded shrimp
2 lb. lobster	Imitation breaded shrimp
steaks sliced to order—no scales	Top sirloin steak, choice
Jumbo shrimp	Butter
<b>Merchandising/Preparation Terms</b>	Cream
Homemade pies	Sour cream
Pies fresh daily	Slices of beef tenderloin
Our own special sauce	Prime New York sirloin strip steak
Finest quality beef	Prime filet/tenderloin steak
Broiled burger	Breast of capon
Smoked ham	Kosher corned beef
Sauteed onions	Country ham
Homemade soup	Virginia ham
Terms subject to investigation:	Baked ham
extra-large	Veal cutlet
jumbo	Prime roast beef
fancy	
large	
giant	
<b>Fresh Foods</b>	
Fresh orange juice	
Fresh bakery products	
Fresh homemade bakery	
Fresh roasted coffee	
Freshly ground sirloin steak	
Fresh salads/cups and cocktails	
Fresh shrimp	
Just caught	
Fresh spinach	
Freshly baked muffins	

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